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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,654	12/01/2003	Mary Lucille DeLucia	19741	2326
23556	7590	01/25/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			PENG, KUO LIANG	
			ART UNIT	PAPER NUMBER
			1712	
DATE MAILED: 01/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/724,654

Applicant(s)

DELUCIA ET AL.

Examiner

Kuo-Liang Peng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/1/04 IDS.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8, 10, 15 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Maycock (US 4 859 759).

For Claims 1-6, 8 and 18-20, Maycock discloses a melt-extrudable composition for making fibers, nonwoven webs, etc. comprising a thermoplastic elastomer such as polyolefins, ABS copolymer, etc. and polysiloxanes of Type A, B or C. The melt-extrudable composition can be used for preparing fibers and nonwoven webs. (col. 22, line 11 to col. 24, line 53, col. 26, lines 16-34 and col. 27, lines 4-32) The weight ratio of the thermoplastic elastomer to the polysiloxane is described in col. 24, lines 21-47. For Claims 10, 15 and 17, the addition of the polysiloxane can lower the melt viscosity of the composition (col. 24, lines 22-47). As such, it would clearly lower the extrusion temperature of the composition.

3. Claims 1-6, 8, 10 and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nohr (US 5 413 655).

For Claims 1-6, 8 and 14-20, Nohr discloses a melt-extrudable composition comprising a thermoplastic elastomer such as the polymers derived from monomers of ethylene, butene, styrene, etc. and the block copolymers derived from these monomers and a polysiloxane polyether. The melt-extrudable composition can be used for preparing nonwoven webs, etc. (col. 4, line 21 to col. 5, line 21, col. 6, line 42 to col. 7, line 18 and Examples) The amount of the polysiloxane polyether is described in col. 10, lines 48-54. For Claim 10, since Nohr's composition is substantially the same as that of the present invention, the polysiloxane polyether can lower the extrusion temperature of the composition.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maycock.

For Claim 7, Maycock discloses a melt-extrudable composition, *supra*, which is incorporated herein by reference. Maycock further discloses the use of the polysiloxane in an amount of as low as about 0.1 wt%. (col. 24, lines 22-47) Maycock is silent on the amount of the polysiloxane being about 0.08 wt%. However, Maycock teaches that the polysiloxane can affect the processibility of the composition. (col. 24, lines 22-47). In other words, the amount of polysiloxane is a Result-Effective variable. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the polysiloxane in whatever amount through routine experimentation to obtain a composition with a proper rheology. Especially, Applicants do not show the criticality of the polysiloxane amount being about 0.08 wt%. See MPEP 2144.05 (II). For Claims 9 and 11, Maycock discloses the polymers derived from monomers such as ethylene, butene, styrene, etc. and the block copolymers derived from these monomers. (col. 27, lines 13-32) Maycock is silent on the specific use of a styrene-ethylene/butylene-styrene block copolymer. However, since Maycock genetically discloses the block copolymers derived from the monomers of ethylene, butene

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and styrene. Furthermore, styrene-ethylene/butylene-styrene block copolymer is a well-known commercially available material. In view of Maycock's disclosure, one of the ordinary skill in the art would have been obviously to utilize a styrene-ethylene/butylene-styrene block copolymer in Maycock's composition with expected success.

6. Claims 7, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nohr.

For Claim 7, Nohr discloses a melt-extrudable composition, *supra*, which is incorporated herein by reference. As mentioned previously, further discloses the use of the polysiloxane in an amount of as low as about 0.1 wt%. (col. 10, lines 48-54) Nohr is silent on the amount of the polysiloxane being about 0.08 wt%. However, Nohr teaches that the less amount of the polysiloxane polyether used the better as long as the properties of the articles made from the composition is acceptable. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the polysiloxane polyether in an amount less than 0.1 wt% through routine experimentation if the properties of the articles made can be compromised a little. (col. 5, lines 11-21) Especially, Applicants do not show the criticality of the polysiloxane amount being about 0.08 wt%. For Claims

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9 and 11, Nohr discloses the polymers derived from monomers such as ethylene, butene, styrene, etc. and the block copolymers derived from these monomers. (col. 27, lines 13-32) Nohr is silent on the specific use of a styrene-ethylene/butylene-styrene block copolymer. However, since Nohr genetically discloses the block copolymers derived from the monomers of ethylene, butene and styrene. Furthermore, styrene-ethylene/butylene-styrene block copolymer is a well-known commercially available material. In view of Nohr's disclosure, one of the ordinary skill in the art would have been obviously to utilize a styrene-ethylene/butylene-styrene block copolymer in Maycock's composition with expected success.

7. Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of Maycock and Nohr teaches or fairly suggests the use of a titanate or a zirconate.


8. The copending U.S. Patent Application Serial No. 10/725,143 recited in the information disclosure statement filed on March 1, 2004 has been fully considered.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

klp  
January 19, 2005

  
**KUO-LIANG PENG**  
**PRIMARY EXAMINER**

Kuo-Liang Peng  
Primary Examiner  
Art Unit 1712